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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
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9 JAMES R. SCARANTINO,

No. 3:20-cv-06146

10 Plaintiff,

11 vs.

COMPLAINT

12 JEFFERSON COUNTY, a Washington
13 municipality,

14 Defendant.

15 **I. INTRODUCTION**

16 This case seeks redress of First Amendment violations by Defendant Jefferson
17 County when it blocked Plaintiff James R. Scarantino as a user and deleted his comments
18 from the County's official Facebook page after he had posted comments critical of the
19 County. By establishing an official government Facebook page, Jefferson County created
20 a designated public forum for speech and then committed viewpoint discrimination by
21 selectively censoring speech critical of the County. Accordingly, Scarantino brings a 42
22 U.S.C. § 1983 claim for (1) declaratory relief, (2) injunctive relief, (3) damages, and (4)
23 attorney's fees and costs.

II. PARTIES

1. Plaintiff James R. Scarantino (“Scarantino”) is an individual residing in Jefferson County, Washington.

2. Defendant Jefferson County (“Jefferson County” or “County”) is a municipal corporation formed under the laws of the state of Washington located in Jefferson County.

III. JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this case pursuant to 28 U.S.C. § 1331 because it brings a claim pursuant to 42 U.S.C. § 1983 and the First Amendment to the United States Constitution.

4. This Court has personal jurisdiction over both parties because they reside within the Western District of Washington.

5. Venue in this district is proper under 28 U.S.C. § 1391 because all the events giving rise to this case occurred in this district and Jefferson County resides in this district.

IV. FACTS

6. Scarantino is the publisher and editor of *The Port Townsend Free Press*, an internet newspaper, which is located at <https://www.porttownsendfreepress.com/>. *The Free Press* publishes periodically and has several contributing writers.

7. *The Free Press*’ reporting and Scarantino’s editorials are often critical of Jefferson County.

8. On October 3, 2019 Jefferson County created the “Jefferson County, WA Government” Facebook page (“County Facebook Page”).

9. Jefferson County operates the County Facebook Page.

1 10. The About section of the County Facebook Page states, “This is the official
2 government Facebook page for Jefferson County, WA.”

3 11. Facebook classifies the County Facebook Page as a “Government Website.”

4 12. The email address for contacting the County Facebook Page is
5 “socialmedia@co.jefferson.wa.us,” which is an official County email account.

6 13. Jefferson County has enabled the “Comment” feature on the County Facebook
7 Page to allow citizens to comment on the County’s posts on the page.

8 14. On March 23, 2020, Jefferson County adopted a “Social Media Policy” governing
9 the operation of the County Facebook Page.

10 15. Scarantino has a personal Facebook account and views the County Facebook Page
11 and other Facebook pages.

12 16. From the October 3, 2019 creation of the County Facebook Page until September
13 10, 2020, Scarantino periodically posted a few comments on the County Facebook Page
14 that were generally critical of Jefferson County’s policies and the conduct of County
15 elected officials.

16 17. On September 10, 2020, the County Facebook Page posted a story about COVID-
17 19.

18 18. That same day, Scarantino commented on the COVID-19 post by raising questions
19 about Jefferson County’s Public Health Officer, Dr. Tom Locke’s, handling of the
20 situation described in the County’s September 10, 2020 post and the County’s COVID-19
21 response in general.

22 19. Scarantino’s Facebook activity log shows he posted a comment on September 10,
23 2020 to the County Facebook Page.

1 20. However, the comment does not appear on the September 10, 2020 post on the
2 County Facebook Page.

3 21. Jefferson County either blocked him as a user of the County Facebook Page or
4 deleted his September 10, 2020 comment or did both.

5 22. Scarantino did not immediately notice that his comment had been deleted or that
6 he had been blocked as a user.

7 23. On November 8, 2020, *The Free Press* published a story about local business
8 owner Joe D’Amico’s federal civil rights suit against Jefferson County entitled, “Joe
9 D’Amico’s \$100 Million Lawsuit Against Jefferson County.” The story is located at
10 [https://www.porttownsendfreepress.com/2020/11/08/joe-damicos-100-million-lawsuit-](https://www.porttownsendfreepress.com/2020/11/08/joe-damicos-100-million-lawsuit-against-jefferson-county-and-david-stanko/)
11 [against-jefferson-county-and-david-stanko/](https://www.porttownsendfreepress.com/2020/11/08/joe-damicos-100-million-lawsuit-against-jefferson-county-and-david-stanko/).

12 24. On November 11, 2020, Scarantino attempted to post a comment on the County
13 Facebook Page.

14 25. That same day he discovered that he could not post comments.

15 26. Scarantino took a screen shot of the County Facebook Page that showed the
16 “Comment” feature was closed to him.

17 27. Scarantino concluded that he had been blocked as a user from commenting on the
18 County Facebook Page.

19 28. Scarantino believes that, in addition to his September 10, 2020 deleted comment,
20 Jefferson County may have blocked or deleted more of his comments from the County
21 Facebook Page.

V. CAUSE OF ACTION

29. Jefferson County created a public forum when it created its County Facebook Page.

30. Specifically, Jefferson County created a designated public forum by, among other things, enabling the “Comment” feature on its County Facebook Page.

31. Scarantino posting and attempting to post comments on the County Facebook Page was activity protected by the First Amendment to the United States Constitution, to-wit: political speech.

32. Jefferson County blocked Scarantino as a user on the County Facebook Page and deleted his comments because his comments were critical of the County.

33. Jefferson County thereby deprived Scarantino of rights protected by the Constitution of the United States, to-wit: the First Amendment.

34. Jefferson County committed viewpoint discrimination by blocking Scarantino as a user and deleting his comments from the County Facebook Page.

35. Jefferson County blocked Scarantino as a user of the County Facebook Page and deleted his comments there under color of law, to-wit: pursuant to the County’s official Social Media Policy.

36. Scarantino suffered injury from Jefferson County blocking him as a user of the County Facebook Page and deleting his comments thereon.

37. Jefferson County’s actions of deleting Scarantino as a user and deleting his comments from the County Facebook Page caused Scarantino damages.

38. Jefferson County’s conduct was the proximate cause of the damages suffered by Scarantino.

1 39. Scarantino wishes to engage in the future in activity protected by the First
2 Amendment, to-wit: political speech on the County Facebook Page.

3 **VI. REQUEST FOR RELIEF**

4 Plaintiff James Scarantino requests the following:

- 5 1. A declaratory judgment that Jefferson County blocking Scarantino as a user of the
6 County Facebook Page and deleting his comments thereon violated the First Amendment
7 to the United States Constitution;
- 8 2. An injunction against Jefferson County preventing further violations of
9 Scarantino's First Amendment rights to post comments on the County Facebook Page;
- 10 3. Nominal damages in the amount of \$1; and
- 11 4. Attorney's fees and costs pursuant to 42 U.S.C. § 1988.

12 RESPECTFULLY SUBMITTED this 23rd day of November, 2020.

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14 By: /s/ Greg Overstreet
Greg Overstreet, WSBA No. 26682

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16 Attorney for Plaintiff
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